

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**GW EQUITY, LLC,**

**PLAINTIFF,**

**v.**

**XCENTRIC VENTURES, LLC,  
[WWW.RIPOFFREPORT.COM](http://WWW.RIPOFFREPORT.COM),  
[WWW.BADBUSINESSBUREAU.COM](http://WWW.BADBUSINESSBUREAU.COM),  
and EDWARD MAGEDSON,**

**DEFENDANTS.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION**

**No. 3-07-CV-0976-K**

---

**PLAINTIFF'S MOTION TO SUBSTITUTE  
SERVICE OF PROCESS FOR EDWARD MAGEDSON**

---

TO THE HONORABLE COURT:

1. Plaintiff GW Equity, LLC ("GW Equity") asks the Court to authorize substitute service on Edward Magedson ("Mr. Magedson").

2. Mr. Magedson's usual place of abode and probable location is 1138 S. Rose, Mesa, Maricopa County, Arizona 85204 and/or 2033 E. McDowell, Apache Junction, Pinal County, Arizona 85006.

3. GW Equity attempted to serve Mr. Magedson on at least seven occasions by process server Jonathan S. Curtis. GW Equity attempted to serve him two times at the S. Rose Street address. *See Exhibit 1-A*. In addition, GW Equity attempted to serve Mr. Magedson five times at the East McDowell address. *See Exhibit 1-B*. Mr. Curtis has not been able to successfully serve Mr. Magedson at either address despite numerous attempts. *See Exhibits 1-A and 1-B*, Affidavits of Jonathan S. Curtis.

4. Additionally, GW Equity attaches an affidavit to this Motion to establish facts not apparent from the record and incorporates them by reference. *See* Exhibit 1, Affidavit of John T. Cox III.

5. As demonstrated in the affidavits, Plaintiff has attempted to serve Mr. Magedson on numerous occasions and all attempts have been unsuccessful. *See* Exhibits 1-A and 1-B. Mr. Magedson cannot be found at the addresses where he is known to reside. *Id.* Furthermore, Mr. Magedson has a long history of evading service of process. *See* Exhibit 1 at ¶ 5 and Exhibit 1-C.

6. Other district courts have permitted substituted service on his attorney Maria Crimi Speth. *See* Exhibit 1-E. Ms. Speth's firm admits they are representing Xcentric Ventures, LLC and Mr. Magedson in this case, but have refused to accept service. *See* Exhibit 3. ("In any case, yes, we will be representing Xcentric and Magedson in the litigation filed by GW Equity. However, neither Xcentric nor Magedson have agreed to waive service").

7. Pursuant to ARIZONA RULE OF CIVIL PROCEDURE 4.1(m)<sup>1</sup>, which this Court may utilize under FED. R. CIV. P. 4(e)(i), GW Equity asks the Court to authorize it to serve Mr. Magedson by (1) attaching a true and correct copy of the petition and citation, attached hereto as Exhibit 2, to his usual place of abode at 1138 S. Rose, Mesa, Maricopa County, Arizona 85204 and 2033 E.

---

<sup>1</sup> Similar to Texas, Arizona has a rule that allows for alternative or substituted service. Rule 4.1(m) provides:

If service by one of the means set forth in the preceding paragraphs of this Rule 4.1 proves impracticable, then service may be accomplished in such manner, other than by publication, as the court, upon motion and without notice, may direct. Whenever the court allows an alternative or substitute form of service pursuant to this subpart, reasonable efforts shall be undertaken by the party making service to assure that actual notice of the summons and the pleadings to be served, as well as any order of the court authorizing an alternative method of service, shall be mailed to the last known business or residence address of the person to be served. Service by publication may be employed only under the circumstances, and in accordance with the procedures, specified in Rules 4.1(n), 4.1(o), 4.2(f) and 4.2(g) of these Rules.

ARIZ. R. CIV. P. 4.1(m).

McDowell, Apache Junction, Pinal County, Arizona 85006 or (2) providing a copy to Maria Crimi Speth via electronic and certified mail return receipt requested.

8. Under FED. R. CIV. P. (d)(2)(G) GW Equity requests the Court shift the costs of service and fees for preparation of this Motion to Mr. Magedson.

WHEREFORE, GW Equity requests that the Court grant its motion to substitute service of process on Edward Magedson.

Respectfully submitted,

/s/ John T. Cox III  
John T. Cox III  
State Bar No. 24003722  
LYNN TILLOTSON & PINKER, L.L.P.  
750 N. St. Paul Street, Suite 1400  
Dallas, Texas 75201  
(214) 981-3800 Telephone  
(214) 981-3803 Facsimile

**ATTORNEY FOR GW EQUITY, LLC**

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and correct copy of the foregoing was served upon the following counsel it believes represents Defendants by *via ECF* on this 12<sup>th</sup> day of June, 2007.

Maria Crimi Speth, Esq.  
Jaburg & Wilk, PC  
3200 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012  
[mcs@jaburgwilk.com](mailto:mcs@jaburgwilk.com)  
Tel: (602) 248-1000  
Direct: (602) 248-1089  
Fax: (602) 248-0522

Jeffrey S. Seeburger  
Kane Russell Coleman & Logan, P.C.  
3700 Thanksgiving Tower  
1601 Elm Street  
Dallas, TX 75201  
Tel: (214) 777-4200  
Direct: (214) 777-4275  
Fax: (214) 777-4299  
[jseeburger@krcl.com](mailto:jseeburger@krcl.com)

/s/ John T. Cox III  
John T. Cox III